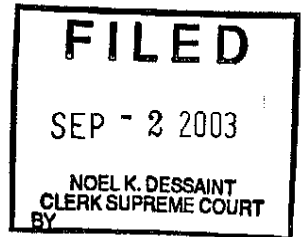


Hon. Michael K. Jeanes
Clerk of the Superior Court in and for Maricopa County
201 West Jefferson Street
Phoenix, Arizona 85003
602-506-7777



IN THE ARIZONA SUPREME COURT

In the matter of PETITION TO AMEND) R-03-0012
RULE 123, Arizona Rules of the Supreme)
Court) COMMENT ON PETITION
)
)
)
)
)

OPPOSITION TO PETITION TO AMEND RULE 123 OF THE ARIZONA SUPREME COURT RULES

As Clerk of the largest Court in Arizona, I strenuously urge you to reject the petition to change Supreme Court Rule 123. The proposed amendment seeks to implement many of the recommendations of the Ad Hoc Committee to Study Public Access to Electronic Court Records, and it is generally successful in proposing appropriate and welcome changes to Rule 123. The proposed rule regarding use of a "sensitive data form," however, misses the mark. Far from accomplishing the goal of the Ad Hoc Committee to allow clerks to "easily segregate" sensitive information and enable remote electronic access to the remainder of the court's records, the form will be burdensome and costly to maintain in the paper file, and, in conjunction with two other key provisions in the amendment, does not achieve its purpose of enabling remote electronic access.

Although the creation of a sensitive data form provides a mechanism for removing confidential or sensitive information from routinely filed documents, it by no means ensures that parties to a case have taken care to omit this information from all other pleadings submitted to the court. The amendment to Section (g) (5) (H) acknowledges this fact, and prohibits posting of non-confidential domestic relations, juvenile, mental health, and probate documents containing unredacted sensitive data to a court's publicly-accessible web site. The Ad Hoc Committee, and anyone else familiar with the day-to-day operations of large public records facility, understands that the cost of reviewing and redacting information on this scale is simply not feasible. These case types are thus effectively prohibited from remote electronic access by the public.

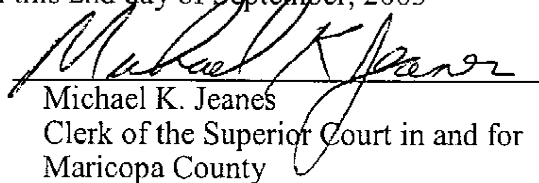
The amendment to Section (g) (5) (G) also closes off public inspection by remote electronic means to any record which contains, among other things, a party's residential address. This provision effectively eliminates access to the remainder of the court's documents not covered by Section (g) (5) (H). Rule 10(d) Arizona Rule of Civil Procedure requires that attorneys list their name, address and telephone number. When a person is representing himself, this rule means that he must list his home information on the filing. The only way a Clerk's Office will be able to

comply with the proposed amendments is if it ensures that **no** court documents are available for remote electronic access. This end result is clearly contrary to the Ad Hoc Committee's stated purpose in creating a sensitive data form.

The Ad Hoc Committee has made an important effort to try to address the issues surrounding court and public needs in a newly electronic world. The underlying benefit in creating a separate form for collecting sensitive information is to be able to secure it from remote electronic access, a task that is easily accomplished in an electronic document management system, but extremely labor intensive and expensive in the maintenance of hard copy case files.

I still believe that there are ways to safely and responsibly enact the recommendations of the Ad Hoc Committee, but I respectfully urge you to reject these proposed changes to Rule 123. I will be happy to work with the Committee to devise a solution that can be implemented successfully.

Dated this 2nd day of September, 2003


Michael K. Jeanes
Clerk of the Superior Court in and for
Maricopa County

A copy of this comment has been mailed or delivered this
2nd day of September, 2003 to:

Hon. Sheldon H Weisberg, Petitioner
Chairman, Ad Hoc Committee to Study Public Access to Electronic Court Records
Chief Judge, Arizona Court of Appeals, Division One
1501 W. Washington
Phoenix, Arizona 85007